
HOUSE BILL No. 1213

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-5-12; IC 12-7-2-178.8; IC 12-24-2-8; IC 16-18-2; IC 16-41-37.

Synopsis: Smoking ban in public places. Prohibits smoking in: (1) public places; (2) enclosed areas of a place of employment; and (3) certain state vehicles. Requires the alcohol and tobacco commission to enforce the prohibition. Makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three unrelated prior offenses. Repeals the current clean indoor air law that prohibits smoking in public buildings.

Effective: July 1, 2009.

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January 16, 2009, read first time and referred to Committee on Public Policy.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1213

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-5-12 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 12. Prohibition on Smoking**

5 **Sec. 1. As used in this chapter, "public place" means an enclosed**
6 **area in which the public is invited or permitted.**

7 **Sec. 2. As used in this chapter, "smoking" means the:**

- 8 (1) carrying or holding of a lighted cigarette, cigar, pipe, or
9 any other lighted smoking equipment; or
10 (2) inhalation or exhalation of smoke from lighted smoking
11 equipment.

12 **Sec. 3. (a) Smoking is prohibited in the following:**

- 13 (1) A public place.
14 (2) Enclosed areas of a place of employment.
15 (3) A vehicle owned, leased, or operated by the state if the
16 vehicle is being used for a governmental function.
17 (b) An employer shall inform each of the employer's employees



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1 and prospective employees of the smoking prohibition in the place
2 of employment.

3 (c) An owner, an operator, a manager, or other individual with
4 authority shall remove ashtrays or other smoking paraphernalia
5 from areas where smoking is prohibited under this chapter.

6 Sec. 4. The commission shall enforce this chapter. The
7 commission may inspect premises that are subject to this chapter
8 to ensure that the person responsible for the premises is in
9 compliance with this chapter.

10 Sec. 5. (a) The official in charge of a public place shall do the
11 following:

12 (1) Post conspicuous signs that read "Smoking Is Prohibited
13 By State Law" or other similar language.

14 (2) Request an individual who is smoking in violation of this
15 chapter to refrain from smoking.

16 (3) Remove an individual who is smoking in violation of this
17 chapter and fails to refrain from smoking after being
18 requested to do so.

19 (b) The proprietor of a restaurant shall post conspicuous signs
20 at each entrance to the restaurant, informing the public that
21 smoking is prohibited in the establishment.

22 Sec. 6. A person who smokes in an area where smoking is
23 prohibited by this chapter commits prohibited smoking, a Class B
24 infraction. However, the violation is a Class A infraction if the
25 person has at least three (3) prior unrelated judgments for a
26 violation of this chapter.

27 Sec. 7. An owner, manager, or operator of a public place or
28 place of employment that fails to comply with this chapter commits
29 a Class B infraction. However, the violation is a Class A infraction
30 if the person has at least three (3) prior unrelated judgments for a
31 violation under this chapter.

32 Sec. 8. This chapter does not prohibit a county, city, town, or
33 other governmental unit from adopting an ordinance more
34 restrictive than this chapter.

35 SECTION 2. IC 12-7-2-178.8 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 178.8. "Smoking", for
37 purposes of IC 12-24-2-8, has the meaning set forth in ~~IC 16-41-37-3~~.
38 **IC 7.1-5-12-2.**

39 SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Notwithstanding
41 IC 12-27-3-3, the superintendent of a state institution has complete
42 authority to regulate smoking (as defined in ~~IC 16-41-37-3~~)

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1 **IC 7.1-5-12-2)** within the state institution.

2 (b) A physician licensed under IC 25-22.5 may prescribe nicotine
3 as is medically necessary for a resident of a state institution.

4 SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.101-2007,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2009]: Sec. 10. (a) "Agency", for purposes of IC 16-23.5, has
7 the meaning set forth in IC 16-23.5-1-2.

8 (b) "Agency", for purposes of IC 16-40-5, has the meaning set forth
9 in IC 16-40-5-1.

10 (c) "Agency", for purposes of ~~IC 16-41-37~~, has the meaning set forth
11 in ~~IC 16-41-37-1~~.

12 SECTION 5. IC 16-41-37-4 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A person who
14 smokes

15 (1) in a public building, except in an area designated as a smoking
16 area under section 5 of this chapter;

17 (2) in the retail area of a grocery store or drug store that is
18 designated as a nonsmoking area by the store's proprietor;

19 (3) in the dining area of a restaurant that is designated and posted
20 as the restaurant's nonsmoking area by the restaurant's proprietor;

21 or

22 (4) in a school bus during a school week or while the school bus
23 is being used for a purpose described in section 2.3(3) of this
24 chapter

25 commits a Class B infraction. However, the violation is a Class A
26 infraction if the person has at least three (3) previous unrelated
27 judgments for violating this section that are accrued within the twelve
28 (12) months immediately preceding the violation.

29 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
30 JULY 1, 2009]: IC 16-18-2-298; IC 16-18-2-318.1; IC 16-18-2-332;
31 IC 16-41-37-1; IC 16-41-37-2; IC 16-41-37-3; IC 16-41-37-3.1;
32 IC 16-41-37-5; IC 16-41-37-6; IC 16-41-37-7; IC 16-41-37-8.

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